

EXHIBIT “D”

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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
CIVIL ACTION NO. OFFICE

2004 OCT 26 A 11:03

STEVEN McDERMOTT,
Plaintiff,

vs.

FEDERAL EXPRESS CORPORATION,
Defendant

MAGISTRATE JUDGE JLA

DISTRICT COURT
DISTRICT OF MASS.

RECEIPT # 59540
AMOUNT \$ 150
SUPPORTS YES
LOCAL RULES
WARRANT FOR
MOTION
BY
DATE 10/26/04

PLAINTIFF'S COMPLAINT

I. PARTIES

1. The Plaintiff, Steven McDermott, is an individual with a primary residence of Bellingham, Norfolk County, Massachusetts.
2. The Defendant, Federal Express, Inc., is a foreign corporation with a principal place of business located at 3610 Hacks Cross Road, Memphis, Tennessee and at all times relevant hereto was the owner of a tractor and trailer that the Plaintiff claims caused his injuries.

II. JURISDICTION

3. The Defendant, at all relevant times herein actively engaged in business in the Commonwealth of Massachusetts and/or contracted to do business in the Commonwealth of Massachusetts. Jurisdiction over the subject matter of this action is conferred by 28 U.S.C., § 332. The amount in controversy exceeds seventy-five thousand and 00/100 (\$75,000.00) exclusive of interests and costs.
4. Jurisdiction over the Defendant, Federal Express, Inc., is conferred by M.G.L. c. 223A, §§ 3(a) and 3(b) and is consistent with the due process clause of the Fourteenth Amendment as the Defendant at all times relevant herein (a) transacted business in the Commonwealth of Massachusetts and (b) contracted to supply services in the Commonwealth of Massachusetts.

III. NEGLIGENCE

5. On or about February 7, 2003, the Plaintiff was operating his tractor-trailer on Interstate 84 Eastbound in the Commonwealth of Pennsylvania.
6. At approximately 3:00 AM, the Plaintiff stopped his tractor-trailer on Interstate 84 for an unrelated accident, which had occurred prior to Plaintiff's arrival.
7. The Defendants motor vehicle, being operated by their agent, servant employee and/or contractor, T.S. Pruitt, was exceeding a reasonable and safe speed taking into account the conditions of the road.

8. The Defendant, unable to stop their motor vehicle, struck the Plaintiff with excessive force causing severe and permanent injuries of body and mind.

9. The Plaintiff, Steven McDermott, sustained personal injuries on February 7, 2003, due to the negligence and carelessness of the Defendant, its agents, servants, employees and/or contractors.

10. As a direct and proximate result of the aforesaid negligence of the Defendant, the Plaintiff, Steven McDermott, sustained severe and permanent personal injuries and has and will continue to be obliged to expend money for medical care and attendance.

11. As a direct and proximate result of the aforesaid negligence of the Defendant, the Plaintiff, Steven McDermott's, earning capacity was damaged and depreciated in value and the Plaintiff was prevented from attending to Plaintiff's usual occupation.

12. As a direct and proximate result of the aforesaid negligence of the Defendant, the Plaintiff, Steven McDermott, will continue to suffer great pain of body and mind.

WHEREFORE, Plaintiff, Steven McDermott, demands judgment against the Defendant, Federal Express, Inc. in an amount to be determined by the jury, plus interest and costs.

PLAINTIFF DEMANDS A JURY TRIAL ON ALL ISSUES.

Respectfully submitted,
Plaintiff, Steven McDermott,
By his attorney,



Joseph M. Mahaney, Esquire

BBO#: 549042

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Dated: October 15, 2004